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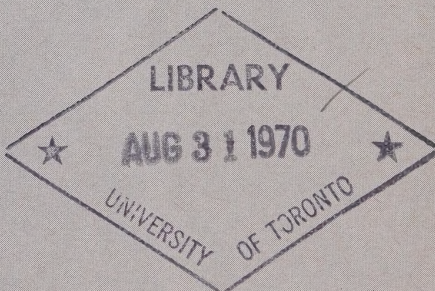
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What does the Official Languages Act mean to Canadians?

Department of the Secretary of State

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What does the Official Languages Act mean to Canadians?

(This description cannot be taken as a substitute for the Official Languages Act. For all purposes of interpreting and applying the law reference should be made to the text of the Act. Copies of the Act may be obtained from the Queen's Printer, Ottawa, at 60 cents each.)

Introduction

The Official Languages Bill was introduced in the House of Commons in October, 1968. The importance of this legislation was recognized from the beginning and the bill was carefully considered in the ensuing debates in the House of Commons itself, in a Special Committee of the House and by the Senate. Amendments were suggested by Government as well as by Opposition members during the prolonged discussion. The final version was unanimously adopted in July, 1969 and came into force on September 7, 1969. Now that it has become the law of the land it is important for all Canadians to understand what it means.

English and French Equal

The Official Languages Act begins with a simple declaration. It states that, as far as federal institutions are concerned, "the English and French languages are the official languages of Canada" and that they "possess and enjoy equality of status and equal rights and privileges as to their use". This simple declaration, however, has significant consequences, since it means that this equality must be recognized by all institutions of the Government of Canada.

Analysis of the Act

The intent of the Act is simple and straightforward although, of necessity, it has been drafted in technical language. The Act contains forty-one clauses which can be conveniently grouped under three headings.

First, a number of clauses ensure that all public documents issued by any federal authority are to be produced in both French and English. Second, in bilingual areas and in certain other situations, government services will be available to the public in both French and English and rights and rules on the use of the official languages are set out for certain judicial proceedings. Finally, there is an outline of the responsibilities of the Commissioner of Official Languages, who will investigate complaints and make recommendations to the authorities of departments and agencies, and if necessary to Parliament, in order to ensure that the spirit of the Act is respected.

Public Documents under Federal Authority

Now that French and English are both official languages, it is obvious that all notices to the public, issued by federal institutions, should be published in both languages. But which institutions are federal? The Act specifically includes not only Parliament and government departments but also any "judicial, quasi-judicial or administrative body or Crown corporation", established by federal statute. This therefore includes the Supreme Court of Canada and the Exchequer Court, federal tribunals such as the Tariff Appeal Board, and Crown corporations such as the Canadian Broadcasting Corporation. The Act also includes the Armed Forces and the Royal Canadian Mounted Police. All such institutions must ensure that instruments in writing, regulations, decisions of judicial bodies and notices to the public appear in both French and English. For those rules, regula-

tions and proclamations which are based on a federal statute and are required to be published in the *Canada Gazette*, the Act orders that normally both French and English versions will be published at the same time.

Special consideration is given to the judgments of federal judicial bodies. When these judgments determine a question of law of general public interest, or where the proceedings were conducted in both official languages, the judgments must be issued in French and in English. It is recognized that in certain circumstances, for example where injustice or hardship may result, the judgment may be issued in the original language with the translation appearing later.

The meaning of laws passed in the two languages presents a special problem. The English and French versions may not be identical because a word in one language may have a special significance for which there is no exact equivalent in the other language. The Act states that in such cases the court must consider both versions and, if the difference seems significant, must choose the version which seems to conform more closely to the intent of the statute under consideration.

In the past any person giving evidence in any proceedings before a federal court could obtain the services of an interpreter if the judge was of the opinion that the person did not have a proper grasp of the language in which the case was being heard. This Act extends this principle to give the accused or witnesses the unconditional right to be heard in the official language of their choice.

Government Services in French and English

The Act requires that the services provided by federal institutions should be available in both languages and that citizens can communicate with these institutions in either French or English. It would be unreasonable, however, to apply this principle uniformly, without any regard to the needs of the local population. For example, it would be unnecessary to insist that the postmaster in every village in British Columbia — or in Quebec — be bilingual. The Act therefore sets out conditions in which the principle will be applied and in which services in both languages will be available. Broadly speaking, two criteria are used: the probable demand for services in both languages and the feasibility of providing them.

In parts of Canada where the local population includes both French- and English-speak-

ing Canadians, there will be a demand for services in both languages. The Act states that, in areas where the official linguistic minority forms at least ten per cent of the total population, bilingual services will be provided. These areas will be known as federal bilingual districts. In order to establish these districts, a Bilingual Districts Advisory Board of from five to ten persons will be appointed after each decennial census. The Board may hold public hearings and must consult with provincial governments before submitting its recommendations to the Canadian government. The report of the Board must be laid before Parliament and a period of ninety days must then elapse before the government establishes any federal bilingual district.

The districts will follow the boundaries of already established regions, such as a census district, a local government or school district, or an electoral district. The Act also deals with areas where federal services have customarily been available in both official languages, even if the French-speaking or English-speaking minority is less than ten per cent. These areas may also be classified as bilingual districts, and services in both languages will continue to be provided there.

The criterion of significant demand for services in the two official languages can also be applied outside the bilingual districts. In areas in which the number of French-speaking or of English-speaking citizens is sufficiently large to create a significant demand, even though it may be less than ten per cent of the total population required to establish a bilingual district, federal agencies are required to provide services in both languages to the extent that it is feasible for them to do so. A similar obligation is placed on federal agencies located in places in Canada and abroad with regard to the travelling public.

National Capital Region

Because of the importance of the National Capital Region for citizens of both official languages, the Act states that federal institutions within this area must provide services in French and English. The head office of every federal institution, whether located in the National Capital Region or elsewhere, is also required to serve the public in both official languages, and the institution must provide available services in both official languages at each of its principal offices in bilingual districts.

Bilingualism of Institutions

The provision of government services in French and English, either because the demand is likely to be significant or because such services are feasible, does not mean that all federal employees will have to be bilingual. What it means is that there must be an adequate number of public servants who can communicate in both official languages. The emphasis is on institutional bilingualism. The objective is to ensure that as far as possible Canadian citizens will have access to federal services in either of the official languages.

Other Languages

A special clause is included to protect languages other than French or English. The Act states specifically that the existing rights or privileges of other languages, whether they have been established by law or by custom, are not to be restricted in any way by this legislation.

Commissioner of Official Languages

In order to ensure that both French and English enjoy equal status in accordance with the terms of this Act, provision is made for the appointment of a Commissioner of Official Languages. His appointment must be approved by Parliament and he reports to Parliament. It is his duty to ensure recognition of the status of each of the official languages and compliance with the spirit and intent of the Act. He will investigate complaints or conduct investigations in order to ascertain whether the equal status of French and English is properly recognized within federal institutions. A complaint may be lodged by an individual or a group of persons. The Commissioner may decide not to investigate because he considers the complaint trivial or because it does not come within his authority; in such cases, he must give his reasons to the person who has made the complaint. If he does conduct an investigation, he will inform this person of the results of his investigation and of whatever recommendations he makes.

How an Investigation is Conducted

The Commissioner, it should be noted, is not a judge. He can best be described as a linguistic ombudsman. His investigations will be conducted in private. He may rely on informal procedures or he may summon witnesses to give evidence under oath and to produce relevant documents. If, after an investigation, he concludes that the status of an official language is not being recognized or that the spirit of the

Act has been contravened, he may make suggestions to the institution or to the officials concerned. The Commissioner, however, does not have the power to order changes. He may report to Parliament on the results of individual investigations and he will submit an annual statement on the discharge of his duties. He may make recommendations to Parliament, but in the final analysis it is up to Parliament to decide what action should be taken.

Safeguards for Public Servants

Special safeguards have been written into the Act to protect public servants during any investigation. Before the Commissioner undertakes any investigation, he must first inform the head of the federal institution concerned. The Commissioner must also disclose the results of his investigation both to the institution concerned and to any public servant who may be directly involved. This means that no report will be submitted to Parliament before there has been an opportunity to reply to any criticism.

Conclusion

The Official Languages Act is based on careful study of the needs of Canadians of both major linguistic communities and on a conviction that the unity of Canada depends upon the achievement of just and equitable arrangements to meet these needs. The basic purpose of the Act is to provide a foundation, where federal institutions are concerned, for equal rights and privileges for the two main linguistic groups in Canada. A willingness on the part of individuals to co-operate in making this principle a reality will be of profound importance for the future of Canada and for all Canadians.

Department of the Secretary of State
Ottawa, Canada

de la plainte est sans importance ou ne relève pas de sa compétence, il devra informer le plaignant de sa décision et donner les raisons qui la motivent.

Afin de protéger les droits des fonctionnaires du gouvernement dans une enquête, le commissaire doit informer le chef administratif de l'institution fédérale en cause avant de procéder à une instruction en vertu de la Loi. Il fera aussi rapport de son enquête à l'institution et au particulier directement en cause.

Conclusion

La Loi des langues officielles est fondée sur une étude approfondie de la situation canadienne et la conviction que l'unité du pays dépendait de notre réponse à la question linguistique. Par la claire affirmation du statut d'égalité des deux langues officielles, la Loi répond à une exigence profonde de notre existence nationale. La réalisation de cet objectif vital exige la collaboration de tous les Canadiens appelés à vivre dans un climat libre de préjugés et d'intolérance.

qui peuvent fort bien, dans l'immense majorité, être des unilingues." Il s'agit donc, pour le gouvernement fédéral, de donner à chacun, dans le domaine qui lui est réservé, "une égalité de chances", si bien que le fait de parler français ou anglais ne sera source, pour l'individu, ni d'avantages ni de désavantages dans ses relations avec les institutions publiques.

Autres langues

La Loi protège également les droits et les privilèges des langues autres que le français et l'anglais. L'article 38 souligne qu'"aucune des dispositions de la présente loi ne sera interprétée comme affectant ou diminuant de quelque manière les droits ou privilèges acquis ou possédés en vertu de la présente loi, en ce qui concerne les langues autres que les langues officielles."

Le commissaire des langues officielles

Le législateur a accordé une grande attention à la création du poste de commissaire des langues officielles et à la définition des fonctions de celui qui, en somme, veillera à l'application de la Loi.

Ses fonctions ne sauraient être assimilées à celles d'un juge. Son mandat est plutôt celui d'un "ombudsman linguistique". Il lui incombe, dit l'article 25, de prendre "toutes les mesures propres à faire reconnaître le statut de chacune des langues officielles et à faire respecter l'esprit de la présente loi", et, à cette fin, de procéder "à des instructions soit de sa propre initiative, soit à la suite de plaintes" et de faire "les rapports et les recommandations" qui s'imposent.

Normalement, le commissaire adressera d'abord ses conclusions au greffier du Conseil privé et au chef administratif de l'organisme en cause. Cependant, s'il considère que les corrections demandées n'ont pas été apportées dans un délai raisonnable, il pourra transmettre son rapport et ses recommandations au gouvernément et, par la suite, en aviser le Parlement auquel le commissaire devra faire chaque année, tout comme l'auditeur général, une déclaration sur l'exercice des ses fonctions.

Une plainte peut être portée par toute personne ou tout groupe de personnes. Si le commissaire décide de ne pas poursuivre une enquête à ce sujet parce qu'il juge que l'objet

et après avoir consulté les gouvernements provinciaux, le conseil présentera ses recommandations au gouvernement canadien. Un délai de 90 jours a été prévu dans la Loi pour la création ou modification d'un district bilingue. Après chaque recensement, le gouvernement constituera un Conseil consultatif des districts bilingues en vue de créer de nouveaux districts ou de modifier les limites des anciens, selon les fluctuations démographiques.

La Loi tient compte également des régions où d'ordinaire le public jouit déjà des services du gouvernement fédéral dans les deux langues officielles même si la minorité française ou anglaise n'atteint pas dix pour cent. La région de la capitale nationale jouit également des services bilingues.

A l'extérieur des districts bilingues, le public aura droit à l'usage des deux langues officielles dans la mesure du possible et si la demande est suffisante.

Dans le passé, toute personne qui comparaisait ou rendait témoignage devant un tribunal fédéral pouvait obtenir les services d'un interprète si le juge était d'avis qu'elle ne comprenait pas suffisamment la langue employée au cours du procès. La Loi a une portée plus grande donnant à l'accusé ou aux témoins le droit absolu de s'exprimer dans l'une ou l'autre des deux langues officielles.

Bilinguisme des institutions

Il est important de souligner que cette Loi s'adresse aux institutions fédérales pour les obliger à fournir des services dans les deux langues officielles. Cependant elle n'exige pas des particuliers la connaissance de l'anglais ou du français; elle n'interdit à personne de parler une autre langue; elle n'impose pas au public canadien la connaissance des deux langues officielles.

La Loi respecte l'esprit du rapport de la Commission d'enquête qui mettait l'accent davantage sur le bilinguisme des institutions que sur celui des individus. "Un pays bilingue," disait-on dans l'introduction générale, "n'est pas un pays dont tous les habitants doivent nécessairement parler deux langues; c'est un pays dont les principales institutions, tant publiques que privées, doivent dispenser leurs services dans les deux langues, à des citoyens

Quelques Aspects de la Loi sur les Langues Officielles

(Ce document décrit d'une manière générale les principales mesures de la Loi sur les langues officielles dont il faut consulter le texte pour une interprétation détaillée et précise. Les copies de la Loi se vendent chez l'imprimeur de la Reine, Ottawa, au prix de 60¢ l'exemplaire.)

En octobre 1968, le Gouvernement présentait à la Chambre des communes un projet de loi dont l'objectif primordial était de donner aux français et à l'anglais un statut, des droits et des privilèges égaux dans les institutions fédérales.

La Commission royale d'enquête sur le bilinguisme et le biculturalisme avait recommandé l'adoption d'une telle loi après avoir réuni à ce sujet, pendant près de quatre ans,

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